

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/333/2025

MANAS KUMAR SINHA
VS
THE KOLKATA MUNICIPAL CORPORATION AND ORS

BEFORE:
The Hon'ble JUSTICE GAURANG KANTH
Date: 17th July, 2025.

APPEARANCE:

Mr. Raghunath Chakraborty, Adv.
Mrs. Tanusree Das, Adv.
...for the petitioner.

Mr. Alak Kr. Ghosh, Adv.
Mr. Swapan Kr. Debnath, Adv.
Ms. Piyali Sengupta, Adv.
...for the KMC.

The Court : The present writ petition challenges the order dated 23.04.2025 issued by the State Public Information Officer (SPIO), whereby the information sought by the petitioner was denied on the ground that the same is exempted under Section 8(1) (i) of the Right to Information Act, 2005,(hereinafter referred to as the "RTI Act") as it pertains to record of deliberation of officers.

The petitioner's case is that he submitted an application dated 17.02.2025 under the RTI Act, seeking certain information. Upon receiving no response thereto, the petitioner preferred a first appeal before the First Appellate Authority. By an order dated 17.04.2025, the First Appellate Authority directed the State Public Information Officer

(SPIO) to furnish the requisite information/documents within fifteen (15) working days.

However, by a communication dated 23.04.2025, the SPIO rejected the petitioner's request, stating that the information sought was exempted under Section 8(1)(i) of the RTI Act. Aggrieved by such denial, the petitioner has filed the present writ petition.

The petitioner contends that the impugned letter of rejection is illegal and perverse, as it records that the SPIO had acted based on the opinion of the Law Department in refusing the requested information. According to the petitioner, such reliance is contrary to the law laid down in *Md. Nasiruddin vs. Hon'ble High Court at Calcutta&Ors.*, reported at (2017) 3 CAL LT 394 (HC). The petitioner places reliance on the following extract from the said judgment:

"The SPIO has not at all acted as an independent authority in the present case. After receiving the first application from the petitioner, the Section Officer (RTI Cell) sought guidance from the Section Officer / Superintendent of the Recruitment Cell as to whether the information sought could be disclosed. This is clearly impermissible. The RTI Cell ought not to seek opinion, advice or guidance from another administrative unit on the permissibility or propriety of disclosing information. Once such opinion is sought, the SPIO's independence is compromised."

On this basis, it is the petitioner's submission that the SPIO is statutorily mandated to act independently and cannot be guided by the opinion of any other authority or department while disposing of an RTI application.

However, upon perusal of the record and consideration of the submissions made, this Court finds the reliance placed by the petitioner on the judgment in *Md. Nasiruddin* to be misplaced. The facts in the present case are clearly distinguishable. The impugned communication dated 23.04.2025 does not disclose that the SPIO mechanically followed any directive from the Law Department, nor does it suggest that the SPIO failed to apply his independent mind. The mere reference to the "opinion of the Law Department" in the rejection letter does not, *ipso facto*, imply that the SPIO acted under external influence or abdicated his statutory responsibility.

In administrative practice, it is not uncommon for public information officers to seek clarifications or legal input regarding the applicability of statutory exemptions, particularly when complex legal or confidentiality issues are involved. The act of obtaining legal opinion, in and of itself, cannot be construed as illegal or improper unless there is clear evidence that the authority failed to exercise independent judgment or acted on dictation. In the present case, there is no such material on record to support such an inference.

Further, Section 8(1)(i) of the RTI Act specifically provides that information which would impede the process of investigation or apprehension or prosecution of offenders may be withheld. Whether a

particular piece of information falls within the ambit of this exemption involves an element of discretion and assessment, which the SPIO appears to have exercised.

Furthermore, it is pertinent to note that the petitioner has an alternative and efficacious statutory remedy under the RTI Act, by way of a second appeal before the State Information Commission. Despite this, the petitioner has chosen to invoke the writ jurisdiction of this Court under Article 226 of the Constitution.

In view of the aforesaid discussion, this Court finds no procedural impropriety, illegality, or absence of independent consideration on the part of the SPIO. The judgment relied upon by the petitioner is found to be inapplicable to the facts and circumstances of the present case. Accordingly, this Court is not inclined to entertain the present writ petition, and the same stands dismissed.

Accordingly, WPO No. 333 of 2025 is dismissed.

(GAURANG KANTH, J.)